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10/662,858	09/15/2003	Douglas J. Ranalli	120148004US3	2140

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EXAMINER

GRANT II, JEROME

ART UNIT	PAPER NUMBER
2626	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/662,858	Applicant(s) RANALLI ET AL.	
	Examiner Jerome Grant II	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-61 and 69-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15, 19-22, 24-61 and 69-78 is/are rejected.
- 7) ☒ Claim(s) 16-18 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

JEROME GRANT II  
PRIMARY EXAMINER

### Detailed Action

**1. Claims 1-12 have been canceled.**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-15, 19-22, 24-54, 56-61, 77 and 78 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon (5,291,302).

With respect to claim 13, Gordon teaches a computer implemented method (via SAFFs 8 and 18), see col. 5, lines 50-55, for facilitating delivery of a document from a source (equipment 1 or 3) to a destination (28, 30) over a network (telephone network 14, see col. 3, lines 1-3 and col. 5, lines 47-50), comprising: attempting an initial delivery SAFF 8 of the document to the destination by using a first destination number col. 6, lines 23-26, col. 6, lines 64-66 and col. 8, lines 15-22; determining that the initial delivery attempt was unsuccessful, via Host 85, see col. 9, lines 16-35; retrieving destination numbers (col. 9, lines 43-46) associated with the destination each of the alternative destination numbers distinct from the first destination number (forward number is assumed different since the first number resulted in a failure) see also col. 7, lines 4-9; performing an additional attempt to deliver the document to the destination by,

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obtaining delivery information related to delivering the document to the destination; col. 9, lines 16-21; selecting (via Host 85) by means of an operator a second destination number based upon obtained delivery information (failure); and attempting a deliver of the document to the destination by using the second destination number (see col. 9, lines 15-22 and 35-45).

With respect to claim 14, Gordon teaches this limitation according to col. 9, lines 40-45.

With respect to claim 15, Gordon teaches this limitation according to the teaching of col. 9, lines 40-45.

With respect to claim 19, Gordon teaches this limitation with respect to the host computer 85 which is used for inputting the telephone number of a different destination.

With respect to claim 20, Gordon teaches a host computer 85 which alerts an operator that a deliver has been unsuccessful and request a recipient to enter alternative deliver instructions. See host 85 and col. 9, lines 15-27.

With respect to claim 21, Gordon teaches this limitation via an operator which has access to the host 85. See col. 9, lines 43-45.

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With respect to claim 22, Gordon teaches this limitation in accordance with col. 9, lines 40-45. Multiple numbers can be used to designate an alternative deliver destination.

With respect to claim 24, Gordon teaches instructions are based on those input to host 85 by the user as taught at col. 9, lines 43-46.

With respect to claim 25, Gordon teaches wherein the attempting of the initial delivery of the document used a first group of delivery information (first telephone number) and wherein the obtained delivery information is distinct additional delivery information (2<sup>nd</sup> delivery telephone number).

With respect to claim 26, this limitation is inherent in that different destination faxes in different remote locations have different telephone numbers.

With reset to claim 27, this claim is inherent in that each destination fax has a unique number.

With respect to claim 28, this limitation is inherent with respect to the fact that the first designated numbers all select the corresponding fax machine.

With respect to claim 29, Gordon teaches making additional attempts according to col. 6, lines 12-15.

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With respect to claim 30, Gordon teaches the limitation of this claim as taught at col. 6, lines 12-15.

With respect to claim 31, Gordon teaches delivery information specific to a document as taught at col. 9, lines 35-45. Each and every unsuccessful document may have instructions attached thereto by host 85.

With respect to claim 32, see col. 9, lines 35-45.

With respect to claim 33, see col. 9, lines 40-45 and col. 8, lines 15-20.

With respect to claim 34, see col. 9, lines 15-20 and 35-55 regarding a next action to be performed when the initial delivery attempt is unsuccessful.

With respect to claim 35, Gordon teaches wherein one or more actions (a step of scanning a document for a delivery attempt) other than the unsuccessful delivery were attempted before the additional delivery attempt (col. 9, lines 40-45) and wherein the selecting of the second destination number (col. 9, lines 40-45) is further based at least in part on the unsuccessful delivery attempt and on the other actions (col. 9, lines 35-40).

With respect to claim 36, Gordon teaches software programs stored in host 85.

With respect to claims 37 and 58, see col. 9, lines 36-38.

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With respect to claims 38 and 59, see col. 9, lines 45-47 and 55-63.

With respect to claims 39 and 60, see col. 9, lines 27-35.

With respect to claims 40 and 57, see col. 9, lines 27-35.

With respect to claim 41, Gordon teaches notifying a human upon an initial delivery attempt via Delivery Record, according to col. 9, lines 35-45.

With respect to claim 42, Gordon teaches this limitation as referred to at col. 9, lines 35-45.

With respect to claim 43, Gordon teaches this limitation in reference to col. 9, lines 40-42 and 54-63.

With respect to claim 44, Gordon teaches a computer readable medium (mass memory 67) whose contents cause a computing device to facilitate delivery of a document from a source to a destination over a network (telephone network 14) comprising the steps of: after an unsuccessful initial attempt to deliver the document (col. 9, lines 15-35) to the destination by using a first destination number associated with the destination (col. 8, lines 15-20), identifying one or more distinct alternative destination numbers associated with the destination (col. 9, lines 40-45); obtaining delivery information ( delivery telephone numbers related to delivering the document to the destination; selecting one of the alternative destination numbers based at least in part on the obtained delivery information (operator can selected from a plurality of numbers by voice or keypad entry to host 85).

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With respect to claim 45, Gordon teaches this limitation based on the generation of a Retry Record which goes back to the originator.

With respect to claim 46, Gordon teaches this limitation with respect to the positive result of the transmission by Delivery Result.

With respect to claim 47, Gordon teaches a computer readable medium (mass memory 67) whose contents cause a computing device to facilitate delivery of a document from a source to a destination over a network (telephone network 14) comprising the steps of: after an unsuccessful initial attempt to deliver the document (col. 9, lines 15-35) to the destination by using a first network (attached to a first destination SAFF but switches to another to secure a successful transmission). associated with the destination (col. 8, lines 15-20); obtaining delivery information (delivery telephone numbers related to delivering the document to the destination; selecting one of the alternative destination numbers based at least in part on the obtained delivery information (operator can selected from a plurality of numbers by voice or keypad entry to host 85).

With respect to claim 48, Gordon teaches Gordon teaches a computer readable medium (mass memory 67) whose contents cause a computing device to facilitate delivery of a document from a source to a destination over a network (telephone



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network 14) comprising the steps of: after an unsuccessful initial attempt to deliver the document (col. 9, lines 15-35) to the destination by using a first destination number associated with the destination (col. 8, lines 15-20), identifying one or more distinct alternative destination numbers associated with the destination (col. 9, lines 40-45); obtaining delivery information ( delivery telephone numbers related to delivering the document to the destination; selecting one of the alternative destination numbers based at least in part on the obtained delivery information (operator can selected from a plurality of numbers by voice or keypad entry to host 85); and attempting a delivery of the document to the destination by using the selected alternative delivery instruction, see col. 6, lines 24-27 and 63-69.

With respect to claim 49, Gordon teaches a computer implemented method (via host 85) for facilitating delivery of a document from a source to a destination, comprising: identifying multiple distinct alternative destination numbers associated with the destination (see col. 6, lines 24-27 and 63-69; identifying one or more distinct alternative destination numbers associated with the destination (col. 9, lines 40-45); obtaining delivery information ( delivery telephone numbers related to delivering the document to the destination; selecting one of the alternative destination numbers based at least in part on the obtained delivery information (operator can selected from a plurality of numbers by voice or keypad entry to host 85) and delivering the document to a destination 928,30) via SAFF 18.

With respect to claim 50, Gordon teaches a computer implemented method for facilitating delivery of a document from a source to a remote destination over a

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network after an initial delivery attempt has been unsuccessful, comprising: determining a group of one or more current conditions (line busy, or paper is depleted) at a remote station and initiating a rule based processing host 85 to determine a next action, col. 9, lines 42-45 related to the delivery of the document based on the determined group of current conditions at the remote destination, the determined next action being one of multiple distinct possible next actions (retry, forward or delete the message, according to col. 9, line 46) such that the other next actions are for use based on other groups of current conditions at the remote destination.

With respect to claim 51, Gordon teaches the remote destinations includes multiple current conditions (retry, forward, or delete message, according to col. 9, line 46, as claimed; receiving an indication of an unsuccessful initial delivery attempt (Retry Record, see col. 9, lines 15-25); determining a second action related to the delivery of the second document based on the determined second group of current conditions as claimed see co. 9, lines 40-45.

With respect to claim 52, see col. 9, lines 40-45 which teaches the limitation of this claim.

With respect to claim 53, the current conditions include retry, forward or deleting the message.

With respect to claim 54, Gordon teaches determining one or more prior conditions related to the remote destination (a telephone number) and wherein the

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determining of the next action (retransmission) by the rule based process is further based on the determined prior conditions (failure of the initial transmission).

With respect to claim 56, Gordon teaches this delivery instruction as deleting, forwarding or retry of transmission of the message. See col. 9, lines 42-45.

With respect to claim 61, Gordon teaches the determined next action according to col. 9, lines 42-45 where the operator communicates the next course of action.

With respect to claim 77 Gordon teaches a method for facilitating network delivery of a document from a source to a destination when an initial delivery attempt has been unsuccessful, comprising:

Retrieving information related to past attempts (via host 85 for generating a Delivery Record) to deliver other documents to the destination; and determining a next of multiple possible actions related to the delivery of the document based at least in part on the retrieved information (selected from retry, forwarding or deleting a message, see col. 9, lines 42-45.

With respect to claim 78, Gordon teaches a method for facilitating network delivery of a document from a source to a destination when an initial delivery attempt has been unsuccessful comprising: notifying a human operator that is not associated

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with the source or the destination of the unsuccessful initial delivery attempt (user accesses computer 85 by a remote terminal from both the originator and destination device, see col. 7, lines 34-39 and col. 9, lines 47-63).

3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Greenstein.

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Gordon teaches all of the limitations upon which this claim depends except for the current conditions including a destination is a non-business day and /or whether a current time at the remote destination is a non-business time.

At col. 5, lines 20-25, Greenstein teaches a CPU 52 that determines the exact date and time from real time clock 80 and transfers this information to RAM 74. This occurs when the facsimile machine that is being called answers the call. Of course, this fax that is answering the call is remote with respect to the fax transmitting the call. In addition, at col. 3, lines 15-25, Greenstein teaches that the transmitting fax may make a call when the phone rates are cheaper. This cheaper phone rate occurs during non-business hours. Hence, Greenstein teaches recording the time when a transmission is made during a non-business hour (when the one rates are the cheapest).

Gordon and Greenstein are both directed toward computing devices for transmitting documents from one location to another location which is remote from the first location. It would have been obvious to one of ordinary skill in the art to modify the host 85 or control means within the SAFFS so that it performs the same functions as does the controller (CPU 52) of Greenstein for the purpose of determining a time of communication on a non-business day.

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 69-76 are rejected under 35 U.S.C. 102(e) as being anticipated by Randall.

With respect to claim 69, Randall teaches a method for facilitating network delivery of a document from a source to a destination when an initial delivery attempt has been unsuccessful, comprising: identifying an occurrence of a non-business data (via circuit 26 of figure 2) at the destination (see para. 67) ; and determining a next of multiple possible actions 9service entity at para. 73) related to the delivery of the document based at least in part on the identification of the occurrence of the non-business day, see parag. 73-80.

With respect to claim 70, the non-business day is identified as occurring currently according to para. 67 (see the business hour table).

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With respect to claim 71, Randalli teaches the non-business day is identified as occurring currently, see para. 67 and the business hour table regarding USA, Korea, Italy which initiates at the close of business.

With respect to claim 72, see para. 67, line 8.

With respect to claim 73, see paragraph 65.

With respect to claim 74, see paragraph 66, lines 3 and 5-12.

With respect to claim 75, this limitation is met in view of the business hour table at para. 67.

With respect to claim 76, Randalli teaches a method for facilitating network delivery of a document from a source to a destination when an initial delivery attempt has been unsuccessful, comprising: identifying an occurrence of a non-business data (via circuit 26 of figure 2) at the destination (see para. 67) ; and determining a next of multiple possible actions 9service entity at para. 73) related to the delivery of the document based at least in part on the identification of the occurrence of non-business hour, see para. 65, line 8.

5.

### **Claims Objected As Containing Allowable Matter**

Claims **16-18 and 23** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6.

### **Examiner's Remarks**

The applicant argues that Gordon does not provide an indication of rule based programming. From the arguments provided in the second full paragraph of page 16, it is not clear what applicant refers to in the argument regarding a rule based function. The examiner relies on the broad definition of rule based, for example, when something does nor doesn't happen, then a different set of steps or actions take place.

At the top of page 17, applicant argues that Gordon does not save failed delivery information or other past delivery attempts. However, Gordon teaches that past failed

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delivery attempts are retried twice. Hence for subsequent attempts, data must be restored if it is to be retried, that is used for a second attempt of transmission.

In the third full paragraph of page 17, applicant argues there is no teaching of a human operator being notified of unsuccessful delivery attempts. The examiner contends that applicant's contention is incorrect in that the human operator calls into the host remotely.

Regarding the arguments of Greenstein with respect to claims 69-76, applicant's remarks are persuasive.

7.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Grant II whose telephone number is 703-305-4391. The examiner can normally be reached on Mon.-Fri. from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams, can be reached on 703-305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEROME GRANT II  
PRIMARY EXAMINER

J. Grant II

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